

493—11.5 (13B) Contract elements.

11.5(1) Contract elements. The state public defender may enter into a contract with a private attorney for the provision of legal services to indigents in cases at the trial court level. The state public defender may also enter into a contract with a private attorney for the provision of legal services to indigents in cases at the appellate level.

11.5(2) A contract can only be in force and effect when a contract acceptance form is signed by the contracting attorney and approved by the state public defender.

11.5(3) The contracting attorney shall be an independent contractor and shall not be an agent or employee of the state of Iowa. The attorney shall exercise the attorney's best independent professional judgment on behalf of clients to whom the attorney is assigned.

11.5(4) After a contract has been awarded, the state public defender shall notify the clerks of court of the counties in which the contracting attorney has requested placement on the list of attorneys willing to provide services in those counties.

11.5(5) A contract with a private attorney should cover, but not be limited to, the following subjects:

- a.* The categories of cases in which the attorney is to provide services;
- b.* The term of the contract and the responsibility of the attorney for provision of services in cases undertaken pursuant to the contract;
- c.* Identification of the attorney(s) who will perform legal representation under the contract;
- d.* A prohibition against assignment of the obligations undertaken pursuant to the contract, including a prohibition against substitution of counsel without prior consent of the state public defender or the court;
- e.* The qualifications of the contracting attorney to undertake legal representation pursuant to the contract;
- f.* A description of the compensation to be paid and the manner of payment;
- g.* A description of any expenses, such as support services, investigative services and expert witness expenses, which may be provided under the contract;
- h.* A description of the record-keeping and reporting requirements under the contract;
- i.* A description of the manner in which the contract may be terminated;
- j.* A description of the manner of disposition of ongoing obligations following termination.

11.5(6) Compensation. Unless the contract provides for a different rate or manner of payment, the attorney shall be compensated as set forth in rule 493—12.4(13B,815) for work performed pursuant to a contract for services at the trial court level and rule 493—12.5(13B,815) for work performed pursuant to a contract for services at the appellate level.

11.5(7) Contract form. Unless the attorney and state public defender agree in writing to vary the terms of the contract between them, the terms contained in the Legal Services Contract Indigent Defense Casework No. 493-10 shall constitute the agreement between the parties for the provision of legal services at the trial court level. The terms of Legal Services Contract Appellate Casework No. 493-10A shall constitute the agreement between the parties for the provision of legal services at the appellate level.

11.5(8) No guarantee of appointments. An attorney under contract with the state public defender is not guaranteed any minimum number of court appointments. The process by which attorneys under contract with the state public defender are appointed to specific cases is governed by Iowa Code chapters 814 and 815. In making appointment decisions, the court may take into consideration any factor it deems appropriate including, but not limited to, the experience of the attorney and the difficulty of the case pursuant to Iowa Code section 815.10(4). The state public defender shall retain sole authority to determine the length of each contract or contract renewal.